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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/775,332	02/11/2004	Shlomit Chasid	25807X	8541
20529	7590	03/02/2006	EXAMINER	
NATH & ASSOCIATES 112 South West Street Alexandria, VA 22314			TRAN, KHOI H	
			ART UNIT	PAPER NUMBER
			3651	

DATE MAILED: 03/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/775,332

Applicant(s)

CHASID ET AL.

Examiner

Khoi H. Tran

Art Unit

3651

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-37 is/are pending in the application.
- 4a) Of the above claim(s) 2,5,11,12,16,17,21-23 and 42 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-28,34 and 40, 41, and 43 is/are rejected.
- 7) ☒ Claim(s) 29-33 and 35-37 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.


Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 February 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.


KHROI H. TRAN
PRIMARY EXAMINER

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 07/04 & 11/05.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Species IV, Figure 4, claims 1, 3, 4, 6, 8-10, 13-15, 18-20, 24-37, 38-41, and 43 in the reply filed on 12/14/2005 is acknowledged.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims.

The lid must be shown or the feature canceled from claims 3, 40, and 43.

The elected dispenser per Figure 4 being attached to a surface of a disposable tissue package must be shown or the feature canceled from claims 13, 38, 39, and 43.

The elected dispenser per Figure 4 and sealing foil must be shown or the feature canceled from claim 19.

The elected dispenser per Figure 4 and the serrated edge must be shown or the feature canceled from claim 34.

No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet,

and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claim 34 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The original specification is silent as to the specifics of a serrated edge for the elected embodiment represented by Figure 4.

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1, 3, 10, 14, 19, 20, 24, 32, 40, and 43 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In regards to claims 1, 40 and 43, "a flap" lacks positive identification. It is not distinct whether the claim combination in fact comprises a flap. Positive recitation of this element is required. "a lid" in claims 40 and 43 also lacks positive identification.

In regards to claim 3, "a re-closable lid" lacks positive identification. It is not distinct whether the claim combination in fact comprises a lid. Positive recitation of this element is required.

In regards to claim 10, "a pulling tab" lacks positive identification. It is not distinct whether the claim combination in fact comprises a tab. Positive recitation of this element is required.

In regards to claim 14, "a depressible locking member" lacks positive identification. It is not distinct whether the claim combination in fact comprises a locking member. Positive recitation of this element is required.

In regards to claim 19, the scope of the claim is not ascertainable from the phrase "manipulating opening with are initially...".

In regards to claim 20, "integral hinge portions" lacks positive identification. It is not distinct whether the claim combination in fact comprises the hinge portions. Positive recitation of these elements are required.

In regards to claim 24, "a film hinge arrangement" lacks positive identification. It is not distinct whether the claim combination in fact comprises a film hinge. Positive recitation of this element is required.

In regards to claim 32, "said tab" lacks antecedent basis.

Double Patenting

7. A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

8. Claims 1, 3, 4, 6, 8-10, 13-15, 18-20, 38-41, and 43 are provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1, 2, 3, 5, 7-9, 12-14, 17-19 and 23-27 of copending Application No. 10/700,341. This is a provisional double patenting rejection since the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 102

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical

Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

9. Claims 1, 3, 4, 6, 8-10, 13, 15, 18, 19, 38-40, 43, and 44 are rejected under 35 U.S.C. 102(b) as being anticipated by Bonk 4,535,912.

Bonk '912 discloses a dispenser for a tissue package per claimed invention. The dispenser comprises a tissue-dispensing aperture 12 and a manipulating opening (the oval opening in Figures 1-3). The aperture and the manipulating opening both open into a tissue containing space of the package. The tissue-dispensing aperture is sized for dispensing one tissue at a time while separating a duty tissue from a successive tissue. The manipulating opening is normally closed by a flap 11 and is openable to allow introduction of a user's fingers into the tissue-containing space. The tissue dispensing aperture and the manipulating opening are coverable.

In regards to claims 3, 4, and 18, Bonk '912 dispenser comprises a lid 13. The dispensing aperture is spaced apart from the lid to accommodate a portion of a tissue.

In regards to claims 6, 8, and 9, Bonk '912 lid is rigidly pliable and is integrally hinged to a portion of the dispenser.

In regards to claim 10, Bonk '912 flap 11 is fitted with a pulling tab 42.

In regards to claim 13, Bonk '912 is attached to a surface of a disposable tissue package (Figure 3).

In regards to claim 15, Bonk '912 dispensing aperture is fitted with friction arrangement to enhance engagement with a tissue.

In regards to claim 19, Bonk '912 dispensing aperture and manipulating opening are sealable by a foil.

In regards to claim 38, Bonk '912 is a tissue package fitted with a dispenser.

In regards to claim 39, Bonk '912 is a tissue cover fitted with a dispenser.

In regards to claim 40, Bonk '912 comprises a rigid cover having a lid 13 engageable with a tissue box 1 (the bottom rigid box).

In regards to claim 43, Bonk '912 assembled dispenser is considered a tissue package. Since Bonk '912 flap 11 is made from plastic, it is deformable.

10. Claims 1, 3, 6, 8-10, 13, 15, 18, 19, 24-27, 38-41, 43, and 44 are rejected under 35 U.S.C. 102(e) as being anticipated by Julius 6,499,626.

Julius '626 discloses a dispenser for a tissue package per claimed invention. The dispenser comprises a tissue-dispensing aperture 9 and a manipulating opening 8 (Figures 1-6). The aperture and the manipulating opening both open into a tissue containing space of the package. The tissue-dispensing aperture 9 is sized for dispensing one tissue at a time while separating a duty tissue from a successive tissue. The manipulating opening is normally closed by a flap 5 and is openable to allow introduction of a user's fingers into the tissue-containing space. The tissue dispensing aperture and the manipulating opening are coverable, i.e. by said flap 5 or by any necessary means for protection.

In regards to claims 3 and 18, Julius '626 dispenser is coverable by any lid means to cover the aperture and the opening.

In regards to claims 6, 8, and 9, Julius '626 flap is rigidly pliable and is integrally hinged to a portion of the dispenser.

In regards to claim 10, Julius '626 flap 5 is fitted with a pulling tab 12.

In regards to claim 13, Julius '626 dispenser is attached to a surface of a disposable tissue package (column 4, lines 44-67).

In regards to claim 15, Julius '626 dispensing aperture 9 is fitted with friction arrangement to enhance engagement with a tissue.

In regards to claim 19, Julius '626 dispensing aperture and manipulating opening are sealable by any foil means.

In regards to claims 24-26, Julius '626 flap 5 is hinged by two living/film hinges having coaxially aligned pivoting axes.

In regards to claim 27, Julius '926 dispenser comprises a frame-surrounding flap 5 (Figure 1).

In regards to claim 38, Julius '626 is a tissue package fitted with a dispenser (column 4, lines 44-67).

In regards to claim 39, Julius '626 is a tissue cover fitted with a dispenser (Figure 1).

In regards to claims 40 and 41, Julius '626 comprises a rigid cover having a lid engageable with a tissue box (Figure 1). The manipulating opening 8 is also molded with the cover.

In regards to claim 43, Julius '626 dispenser is a tissue package. Since Julius '626 flap 5 is made from plastic, it is deformable.

11. Claims 1, 3, 6, 8-10, 13, 15, 18, 19, 38-41, 43, and 44 are rejected under 35 U.S.C. 102(b) as being anticipated by Margulies 4,526,291.

Margulies '291 discloses a dispenser for a tissue package per claimed invention. The dispenser comprises a tissue-dispensing aperture 20 and a manipulating opening 18 or the opening within collar 8 (Figures 2-5). The aperture and the manipulating opening both open into a tissue containing space of the package. The tissue-dispensing aperture 20 is sized for dispensing one tissue at a time while separating a duty tissue from a successive tissue. The manipulating opening is normally closed by a flap 24 and is openable to allow introduction of a user's fingers into the tissue-containing space. The tissue dispensing aperture and the manipulating opening are coverable by lid 12.

In regards to claims 3 and 18, Margulies '291 dispenser is coverable by lid 12.

In regards to claims 6, 8, and 9, Margulies '291 flap is rigidly pliable and is integrally hinged to a portion of the dispenser.

In regards to claim 10, Margulies '291 flap 5 is fitted with a pulling tab (Figures 2-5).

In regards to claim 13, Margulies '291 dispenser is attached to a surface of a disposable tissue package (column 1, lines 50-68).

In regards to claim 15, Margulies '291 dispensing aperture 20 is fitted with friction arrangement to enhance engagement with a tissue.

In regards to claim 19, Margulies '291 dispensing aperture and manipulating opening are sealable by any foil means.

In regards to claim 20, Margulies '291 manipulating opening is hinged by integral hinge 16 (Figure 5).

In regards to claim 38, Margulies '291 is a tissue package fitted with a dispenser.

In regards to claim 39, Margulies '291 is a tissue cover fitted with a dispenser.

In regards to claims 40 and 41, Margulies '291 comprises a rigid cover having a lid engageable with a tissue box. The manipulating opening is also molded with the cover.

In regards to claim 43, Margulies '291 dispenser is a tissue package. Since Margulies '291 flap is made from plastic, it is deformable.

Claim Rejections - 35 USC § 103

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claims 24-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Margulies 4,526,291 in view of Julius 6,499,626.

In regards to claims 24-26, Margulies '626 discloses all elements per claimed invention as explained above. However, it is silent as to the specifics of a pair of spaced film hinges for the flap.

Julius '626 discloses a dispenser for tissue package having coaxially aligned hinges. Julius '626 specifically teaches that living or film hinges having an opening there between reduce the stress on the hinges (column 6, lines 42-46). Julius '626 also demonstrates that film hinges are commonly well known hinges.

It would have been obvious for a person with ordinary skill in the art, at the time the invention was made, to have provided to Margulies hinge means with at least two commonly well known film hinges having an opening there between, as taught by Julius '626, because it facilitates stress reduction for the hinge means. In addition, it is obvious that providing film hinge means with opening increases the flexibility for the hinges.

In regards to claim 27, Margulies '626 modified dispenser comprises a frame 10 surrounding said flap 12.

In regards to claim 28, Margulies '626 dispensing aperture 20 is defines by a first edge movable with said flap 12 (not numbered but shown in Figure 3 as the edge perpendicularly located with respect to the slit 20, the edge is defined by the raised portion 26 of flap 12), and a second edge which is fixed to the frame 10.

Allowable Subject Matter

14. Claims 29-33 and 35-37 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

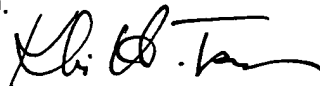
Conclusion

15. Additional references made of record and not relied upon are considered to be of interest to applicant's disclosure: see attached USPTO Form 892.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khoi H. Tran whose telephone number is (571) 272-6919. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Crawford can be reached on (571) 272-6911. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Khoi H Tran
Primary Examiner
Art Unit 3651

KHT
02/24/2006